IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.1063/99

Manga Ram **Versus** State

DATE OF ORDER :: 06/08/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Dinesh Yadav, for petitioner
Mr. Arun Sharma, P.P.

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Instant petition has been filed assailing the order whereby charge has been framed against accused-petitioner for offence u/s.143(2) of Railways Act, 1989 and the revision petition preferred against the said order, was dismissed on 27th July, 1999.

It was alleged in the compliant that accused-petitioner came at the ticket window on 10th June, 1997 at about 12.50 PM to change the gender of two tickets issued in the name of Asha, who is 30 yrs. from Jaipur to Kota & Kota to Mumbai Central. On inquiry made from Babulal who was sitting on the Booking Window, it was alleged by him that the accused-petitioner had sent his servant Kailesh Meena who has purchased the said tickets, but because of discrepancy in the gender, he has come forward to make proper correction. On inquiry, it was revealed that Kailesh Meena was an Agent who took Rs.20/- for each ticket issued to Manga Ram, accused-petitioner and on statements recorded of persons

sitting on the Railway Booking Counter namely; Narendra Kumar, Girraj Prasad & Babulal, it revealed that Kailesh Meena was an Agent who charged money for issuance of tickets and it was a regular trading between two i.e. Kailesh Meena & Manga Ram, accused-petitioner. After taking said statements into consideration, the cognizance was taken against accused-petitioner and after affording an opportunity, charges have been framed against him u/s.143(2) of Railways Act. Revision petition preferred by petitioner was dismissed by a detailed order on 27th July, 1999. He is facing trial since 1999 and as per information of petitioner, the trial still has not been finally concluded and it is at the stage of evidence of accused-petitioner. Kailesh Meena has not preferred any petition further and he is facing regular trial.

Basic contention of counsel for petitioner is that the requisition slips, which were signed by Manga Ram accused-petitioner, were for change of gender of Asha from 'Male' to 'Female', therefore, he cannot be said to have committed an offence and he atleast cannot be charged for the error which was committed by the person sitting on the Booking Counter.

Learned Public Prosecutor has supported the charges framed against accused-petitioner and so also finding recorded under order impugned.

In the challan papers, which have been shown to this court, there were other reservation slips for Jaipur to Ratlam which were duly signed by accused-petitioner for various destinations in addition to present reservation slip in question, where two tickets were separately issued in the name of passenger Asha of 10th June, 1997 from Jaipur to Kota & Kota to Mumbai Central and prima facie there is an apparent contradiction in the statements of accused-petitioner and so also of Kailesh Meena. The accused-petitioner in his statement alleged that Kailesh Meena was his servant, whereas Kailesh Meena has disputed the same and in his statement, he has shown himself to be an Agent. Apart from them, the statements of Booking Office Staff of Railway Department namely; Narendra Kumar, Girraj Prasad & Babulal were also recorded and the learned trial Judge after taking into consideration the same, finally framed the charges against accused-petitioner, who is facing trial for the alleged offence committed u/s.143(2) of Railway Act.

I have gone through the order and prima facie satisfied that no error has been committed by learned trial Judge in framing charges against accused-petitioner and obviously, this court cannot hold inquiry at this stage as to whether the material which came on record possibly is sufficient in holding petitioner guilty or not and it is for the trial Judge to examine the

statements of witnesses and record finding in this regard.

I do not find any justification to interfere in the instant misc. petition, the same stands dismissed.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.